

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ADJUSTMENT OF RATES OF AT&T)	
COMMUNICATIONS OF THE SOUTH)	CASE NO. 9889
CENTRAL STATES, INC.)	

O R D E R

On November 13, 1987, the Commission issued an Order wherein AT&T Communications of the South Central States, Inc., ("AT&T") was required to produce certain information which had been requested by the Attorney General of the Commonwealth of Kentucky ("AG") and MCI Telecommunications Corporation ("MCI"). The Commission ordered the information filed under protection of an appropriate confidentiality agreement which AT&T had stated was the only manner in which it would produce the requested information.

On November 19, 1987, AT&T filed a Motion for Reconsideration of portions of the November 13, 1987, Order regarding information to be provided to MCI. AT&T contends that the information sought in MCI Requests 7 through 10 does not contain data relating solely to the rate flexibility proposal. Accordingly, AT&T states there is no information to be provided in response to those four requests.

In its motion AT&T contends that MCI's Request No. 11 is beyond the scope of this proceeding which deals with whether its rate flexibility proposal conflicts with the Findings and Orders

in Administrative Case No. 273. AT&T claims that MCI, as a direct competitor, could use the information from Request No. 11 to the competitive disadvantage of AT&T. AT&T also argues that the Commission is being unfair by requiring AT&T to produce such information when MCI has not been required to produce similar data in previous cases.

On November 30, 1987, MCI filed its response to AT&T's motion wherein it opined that the Commission should deny AT&T's motion and reaffirm its November 13, 1987, Order. Therein, MCI contends that AT&T, as a dominant carrier subject to rate base/rate of return regulation, is required to demonstrate that its proposed flex rates will cover its fully allocated costs.

DISCUSSION

The Commission staff has reviewed in detail the data responsive to MCI Requests 7 through 10 and has found no information relating to AT&T's rate flexibility proposal included therein. Therefore, the Commission is of the opinion that no response is applicable to those requests.

The Commission is of the opinion that the issue of AT&T's variable costs, as requested in MCI Request No. 11, is correctly within the scope of this proceeding, which is to determine whether AT&T's rate flexibility proposal conflicts with Administrative Case No. 273. Also, in consideration of AT&T's status as the sole dominant carrier in this jurisdiction, the Commission finds the argument that it would be unfair to require AT&T to produce information not required of MCI to be unpersuasive. However, after a review of AT&T's response to AG Request No. 4, which

essentially contains the same information sought in MCI Request No. 11, the Commission is of the opinion that certain non-tariffed parts of the information detailing the components of AT&T's variable costs are proprietary and confidential. As such, AT&T should not be required to produce the specific amounts of these cost components to a direct competitor such as MCI.

Certain components of AT&T's variable costs are based on tariffed rates which do not require confidentiality. The Commission is of the the opinion that such costs can be provided to MCI without causing competitive injury to AT&T. Also, the identity of those cost components for which the amounts shall remain confidential do not require confidential treatment, and should be made available to MCI as well. As a guide, the Commission would suggest that AT&T use a format similar to that used in responding to AG Request No. 4 and obliterate the specific amounts deemed confidential and the total cost amounts (which include the specific confidential amounts). In this manner all cost components will be identified but only the amounts based on tariffed rates will be made public.

As a comment on MCI's response and the claim therein concerning AT&T's proposed flex rates, the Commission believes the following statement to be in order. Although AT&T is subject to rate base regulation, the Commission will require that AT&T's flex rates at least cover variable costs.

PROCEDURAL MATTERS

In its original objection to MCI's requests AT&T stated that if ordered to produce the requested information it would do so only under the protection of a confidentiality agreement. Acting upon that statement, the Commission issued its November 13 Order which gave rise to the issue addressed in this Order. Had AT&T not made such a statement and made known the extent of its concern for confidentiality in its original objections this matter could have been settled weeks ago saving the parties, as well as the Commission, much valuable time. The Commission would hope that further delays and misunderstandings of this type can be avoided for the duration of this proceeding.

SUMMARY

The Commission, having considered this matter and being advised, is of the opinion and finds that:

1. None of the information responsive to MCI Requests 7 through 10 deals with the issue of rate flexibility; therefore, no responses are required.

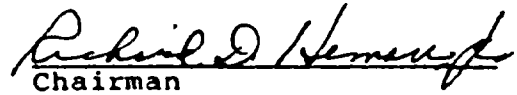
2. The information sought in MCI Request No. 11 is pertinent to the issue of AT&T's rate flexibility proposal and should be produced to the Commission.

3. All amounts of AT&T's variable cost components not based on tariffed rates should not be provided to MCI and should remain confidential.

IT IS THEREFORE ORDERED that AT&T shall respond to MCI Request No. 11 but that certain aspects of said response shall remain confidential and not be provided to MCI.

Done at Frankfort, Kentucky, this 29th day of December, 1987.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director